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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,586	11/24/2003	Donna K. Hodges	BS030348	5016
7590 Scott P. Zimmerman P.O. Box 3822 Cary, NC 27519	02/07/2007		EXAMINER SIKRI, ANISH	
			ART UNIT 2109	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/07/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/720,586	HODGES ET AL.
	Examiner	Art Unit
	Anish Sikri	2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 November 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/08/04</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Specification

The application numbers in the specification paragraphs [0001]-[0008] (i.e., XX/XXX,XXX) are objected as the specification does not mention any numbers. The application numbers need to be provided.

The title of the application is objected due to having a very generic and broad title. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 to 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato (US 2002/0112060 A1).

Consider **Claim 1**, Kato clearly discloses the method of providing communications services, comprising the steps of: receiving a first data stream at a computer (Kato, Page 4 [0069]), the first data stream comprising packets of data packetized according to a packet protocol (Kato, Page 4 [0069]); segmenting the first data stream into segments according to a set of subscriber-specified rules stored in memory (Kato, Page 4 [0069]), the set of subscriber-specified rules specified by a subscriber to a subscription service (Kato, Page 4 [0069]), the set of subscriber-specified rules specifying how electronic data is formatted for the subscriber (Kato, Page 4 [0059] and [0069]); dispersing at least one segment via a network for a subsequent processing service (Kato, Page 4 [0059] and [0069]); receiving a result of the processing service; assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another

segment; and communicating the second data stream via the network (Kato Page 4, [0059], [0067]-[0069]).

Consider **Claim 2**, Kato clearly shows the step of receiving a request for electronic data, the request for electronic data originating from a client communications device, and wherein second data stream fulfils the request for the electronic data (Kato, Page 4 [0069]).

Consider **Claim 3**, Kato clearly shows the step of communicating the second data stream to a client communications device (Kato, Page 4 [0069]).

Consider **Claim 4**, Kato clearly shows the step of assembling the second data stream comprises assembling the second data stream according to the set of subscriber-specified rules stored in the memory (Kato, Page 35, claim 44,45 and 46, Page 4 [0069], Page 4 [0076]).

Consider **Claim 5**, Kato clearly shows the step of communicating the second data stream comprises communicating the second data stream according to the set of subscriber-specified rules stored in the memory (Kato, Page 35, claim 44,45 and 46, Page 4 [0059]).

Consider **Claim 6**, Kato clearly shows the step of processing a segment according to the set of subscriber-specified rules stored in the memory (Kato, Page 35, claim 44,45 and 46, Page 4 [0070]).

Consider **Claim 7**, Kato clearly shows the step of accessing the set of subscriber-specified rules stored in the memory of a client communications device (Kato, Page 35, claim 44,45 and 46, Page 4 [0067]).

Consider **Claim 8**, Kato clearly shows the step of inferring an action based upon the set of subscriber-specified rules (Kato, Page 35, claim 44,45 and 46, Page 25-26 [0407]).

Consider **Claim 9**, Kato clearly shows the step of inferring a new rule based upon the set of subscriber-specified rules (Kato, Page 35, claim 44,45 and 46, Page 26 [0411], [0414]).

Consider **Claim 10**, Kato clearly shows the step of requesting a new rule for a new situation (Kato, claim 44, 45, 46, 47, 48, 51, page 26 [0411], [0414]).

Consider **Claim 11**, Kato clearly shows the system, comprises of: a Analysis module stored in a memory device, the Analysis module receiving a first data stream at a computer (Kato, Page 4 [0069]), the first data stream comprising packets of data

packetized according to a packet protocol (Kato, Page 4 [0069]), the Analysis module segmenting the first data stream into segments according to a set of subscriber-specified rules stored in memory (Kato, Page 4 [0069]), the set of subscriber-specified rules specified by a subscriber to a subscription service (Kato, Page 4 [0069]), the set of subscriber-specified rules specifying how electronic data is formatted for the subscriber (Kato, Page 4 [0059] and [0069]), the Analysis module dispersing at least one segment via a network for a subsequent processing service, the Analysis module receiving a result of the processing service (Kato, Page 4 [0059] and [0069]), the Analysis module assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment, the Analysis module communicating the second data stream via the network; and a processor communicating with the memory device (Kato, Page 2 [0022], Page 5 [0073], Page 11 [0187], and Page 4 [0067]-[0069]).

Consider **Claim 12**, Kato clearly shows that a computer program product, comprising: a computer-readable medium; and a Analysis module stored on the computer-readable medium (Kato, Page 4 [0069]), the Analysis module receiving a first data stream at a computer (Kato, Page 4 [0069]), the first data stream comprising packets of data packetized according to a packet protocol, the Analysis module segmenting the first data stream into segments according to a set of subscriber-specified rules stored in memory (Kato, Page 4 [0069]), the set of subscriber-specified

rules specified by a subscriber to a subscription service, the set of subscriber-specified rules specifying how electronic data is formatted for the subscriber (Kato, Page 4 [0059] and [0069]), the Analysis module dispersing at least one' segment via a network for a subsequent processing service (Kato, Page 4 [0059] and [0069]), the Analysis module receiving a result of the processing service, the Analysis module assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment, the Analysis module communicating the second data stream via the network (Kato, Page 2 [0022], Page 5 [0073], Page 11 [0187], and Page 4 [0067]-[0069]).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory double patenting over **claim 3** of copending Application No. 10/720800. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The **claim 1** of 10/720586 recites a method of providing communications services, comprising the steps of: receiving a first data stream at a computer, the first data stream comprising packets of data packetized according to a packet protocol; segmenting the first data stream into segments according to a set of subscriber-specified rules stored in memory, the set of subscriber-specified rules specified by a

subscriber to a subscription service, the set of subscriber-specified rules specifying how electronic data is formatted for the subscriber; dispersing at least one segment via a network for a subsequent processing service; receiving a result of the processing service; assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment; and communicating the second data stream via the network. And the **claim 3** of copending application No. 10/720800 recites a method of providing communications services, comprising the steps of: receiving a first data stream at a computer, the first data stream comprising packets of data packetized according to a packet protocol; segmenting the first data stream into segments according to a Service Level Agreement, the Service Level Agreement being an agreement defining parameters for communications service for the subscriber; dispersing at least one segment via a network for a subsequent processing service; receiving a result of the processing service; assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment; and communicating the second data stream via the network.

In comparison of both the claims, the subscriber-specified rules specified by a subscriber to a subscription service are stated in the SLA (Service Level Agreement). One can see that **claim 1** of 10/720586 is identical to **claim 3** of 10/720800. Since, Omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. In re KARLSON (CCPA) 136 USPQ 184 (1963), the claims are not patentably distinct.

Claim 11 is provisionally rejected on the ground of nonstatutory double patenting over **claim 15** of copending Application No. **10/720800**. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The **claim 11** of **10/720586** recites a system, comprising: a Analysis module stored in a memory device, the Analysis module receiving a first data stream at a computer, the first data stream comprising packets of data packetized according to a packet protocol, the Analysis module segmenting the first data stream into segments according to a set of subscriber-specified rules stored in memory, the set of subscriber-specified rules specified by a subscriber to a subscription service, the set of subscriber-specified rules specifying how electronic data is formatted for the subscriber, the Analysis module dispersing at least one segment via a network for a subsequent processing service, the Analysis module receiving a result of the processing service, the Analysis module assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment, the Analysis module communicating the second data stream via the network; and a processor communicating with the memory device. And the **claim 15** of copending application no. **10/720800** recites a system, comprising: a Analysis Module stored in a memory device, the Analysis Module receiving a first data stream at a computer, the first data stream comprising packets of data packetized according to a packet protocol, the Analysis Module segmenting the first data stream into segments according to a Service Level Agreement, the Service Level Agreement being an agreement defining

parameters for communications service for the subscriber, the Analysis Module dispersing at least one segment via a network for a subsequent processing service, the Analysis Module receiving a result of the processing service, the Analysis Module assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment, the Analysis Module communicating the second data stream via the network; and a processor communicating with the memory device.

In comparison of both the claims, the subscriber-specified rules specified by a subscriber to a subscription service are stated in the SLA (Service Level Agreement). One can see that **claim 11 of 10/720586** is identical to **claim 15 of 10/720800**. Since, Omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. In re KARLSON (CCPA) 136 USPQ 184 (1963), the claims are not patentably distinct.

Claim 12 is provisionally rejected on the ground of nonstatutory double patenting over **claim 16** of copending Application No. **10/720800**. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The **claim 12 of 10/720586** recites a computer program product, comprising: a computer-readable medium; and a Analysis module stored on the computer-readable medium, the Analysis module receiving a first data stream at a computer, the first data stream comprising packets of data packetized according to a packet protocol, the Analysis module segmenting the first data stream into segments according to a set of subscriber-specified rules stored in memory, the set of subscriber-specified rules

specified by a subscriber to a subscription service, the set of subscriber-specified rules specifying how electronic data is formatted for the subscriber, the Analysis module dispersing at least one segment via a network for a subsequent processing service, the Analysis module receiving a result of the processing service, the Analysis module assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment, the Analysis module communicating the second data stream via the network. And the **claim 16** of copending application no. **10/720800** recites a computer program product, comprising: a computer-readable medium; and a Analysis Module stored on the computer-readable medium, the Analysis Module receiving a first data stream at a computer, the first data stream comprising packets of data packetized according to a packet protocol, the Analysis Module segmenting the first data stream into segments according to a Service Level Agreement, the Service Level Agreement being an agreement defining parameters for communications service for the subscriber, the Analysis Module dispersing at least one segment via a network for a subsequent processing service, the Analysis Module receiving a result of the processing service, the Analysis Module assembling a second data stream, the second data stream comprising at least one of i) the result of the processing service and ii) another segment, the Analysis Module communicating the second data stream via the network.

In comparison of both the claims, the subscriber-specified rules specified by a subscriber to a subscription service are stated in the SLA (Service Level Agreement). One can see that **claim 12** of **10/720586** is identical to **claim 16** of **10/720800**. Since,

Omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. In re KARLSON (CCPA) 136 USPQ 184 (1963), the claims are not patentably distinct.

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Anish Sikri whose telephone number is (571) 270-1783. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Anish Sikri
A.S./a.s.

January 19, 2007

Rafael Perez-Gutierrez
RAFAEL PEREZ-GUTIERREZ
SUPERVISORY PATENT EXAMINER

2/1/07